

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

IRENE WASSERMAN,)	
ROBERT WASSERMAN,)	
)	
Plaintiffs,)	
)	Action No.: 3:07-cv-1091-WKW-SRW
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

RESPONSE TO ORDER

COMES NOW Defendant, the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and pursuant to the Court's Order of February 20, 2008 (doc. 20) provides the following:

1. Attachment 1 - Notice of Filing Removal, No. SM-07-341, Irene Wasserman
2. Attachment 2 - Motion to Set Aside Default Judgment, No. SM-07-341, Irene Wasserman
3. Attachment 3 - Notice of Filing Removal, No. SM-07-342, Robert Wasserman
4. Attachment 4 - Motion to Set Aside Default Judgment, No. SM-07-342, Robert Wasserman
5. Attachment 5 - Certified Copy of Docket Sheet, No. SM-07-341, Irene Wasserman
6. Attachment 6 - Certified Copy of Docket Sheet, No. SM-07-342, Robert Wasserman

Respectfully submitted this the 21st day of February, 2008.

LEURA G. CANARY
United States Attorney

By: s/R. Randolph Neeley
R. RANDOLPH NEELEY
Assistant United States Attorney
Bar Number: 9083-E56R
Post Office Box 197
Montgomery, AL 36101-0197
Telephone No.: (334) 223-7280
Facsimile No.: (334) 223-7418
E-mail: rand.neeley@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have mailed, by United States Postal Service, a copy of same to the following non-CM/ECF participant(s):

Irene & Robert Wasserman
4554 Notasulga Rd.
Tallassee, AL 36078.

s/R. Randolph Neeley
Assistant United States Attorney

ATTACHMENT 1

IN THE SMALL CLAIMS COURT
TALLAPOOSA COUNTY, ALABAMA



FILE COPY

IRENE WASSERMAN,

Plaintiff,

v.

Case Number: SM-07-341

GREGORY LONG, Executive Director,
Federal Retirement Thrift Investment
Board.

NOTICE OF FILING REMOVAL

Frank Lucas
Clerk of the Court
125 N. Broadnax St., Rm. 132
Dadeville, AL 36853

PLEASE TAKE NOTICE that on this 14th of December, 2007, the United States filed in the office of the Clerk of the United States District Court for the Middle District of Alabama a Notice of Removal and Substitution of the above-styled action to that Court. A copy of that Notice is hereby filed with this Court. This action has been removed to the United States District Court and, in accordance with 28 U.S.C. § 1446 (d), this honorable Court should proceed no further unless and until the case is remanded.

Respectfully submitted this 14th day of December, 2007.

LEURA G. CANARY
United States Attorney

By: 

R. Randolph Neeley
Assistant United States Attorney
Bar Number: #9083-E56R
Attorney for Defendant
United States Attorney's Office
Post Office Box 197
Montgomery, AL 36101-0197
Telephone: (334) 223-7280
Facsimile: (334) 223-7418
E-mail: rand.neeley@usdoj.gov

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Irene Wasserman
4554 Notasulga Rd.
Tallahassee, AL 36078


Assistant United States Attorney

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

IRENE WASSERMAN,

Plaintiff,

v.

GREGORY LONG, Executive Director,
~~Federal Retirement Thrift Investment~~
Board,

Defendant.

ACTION NO.: _____

NOTICE OF REMOVAL

Petitioner, Gregory Long, Executive Director, Federal Retirement Thrift Investment Board, and/or unnamed employees of the Thrift Savings Plan (TSP), by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, respectfully petitions for removal of this action from the Small Claims Court of Tallapoosa County, Alabama, to the United States District Court for this District, and in support thereof, represent the following:

1. That Petitioner, Gregory Long, Executive Director, Federal Retirement Thrift Investment Board, and/or unnamed employees of the Thrift Savings Plan (TSP), is a named Defendant in the above-captioned civil action which is pending in the Small Claims Court of Tallapoosa County, Alabama, Civil Action No. SM-07-341. Copies of all process, pleadings, and orders served upon Defendants in such action are attached hereto.

2. That the above-captioned action is one which may be removed without bond to this court pursuant to 28 U.S.C. §§ 1442(a)(1), for the reasons that this is an action against an officer and/or agency of the United States for any act under color of such office.

WHEREFORE, Petitioner prays that said action be removed from the Small Claims Court of Tallapoosa County, Alabama.

Respectfully submitted this 14th day of December, 2007.

LEURA G. CANARY
United States Attorney

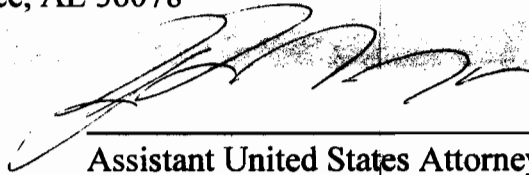
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Irene Wasserman
4554 Notasulga Rd.
Tallasse, AL 36078


Assistant United States Attorney

Case Action Summary - 62SM200700034100

Date	Time	Code	Comments	Operator
11/26/2007	1:40:08	ASSJ	ASSIGNED TO JUDGE: CLAYTON KIM TAYLOR (AV01)	BRF
11/26/2007	1:40:10	ORIG	ORIGIN: INITIAL FILING (AV01)	BRF
11/26/2007	1:40:11	TDMM	BENCH/NON-JURY TRIAL REQUESTED (AV01)	BRF
11/26/2007	1:40:12	SCAN	CASE SCANNED STATUS SET TO: N (AV01)	BRF
11/26/2007	1:40:13	STAT	CASE ASSIGNED STATUS OF: ACTIVE (AV01)	BRF
11/26/2007	1:40:27	PART	WASSERMAN IRENE H. ADDED AS C001 (AV02)	BRF
11/26/2007	1:41:13	PART	LONG GREGORY ADDED AS D001 (AV02)	BRF
11/26/2007	1:41:14	SUMM	CERTIFIED MAIL ISSUED: 11/26/2007 TO D001 (AV02)	BRF
12/11/2007	10:44:51	SERC	D001 SERVED CERTIFIED MAIL ON 11/28/2007	BRF

 **END OF THE REPORT**

RECEIVED NOV 28 2007

State of Alabama Unified Judicial System Form SM-1 (front) Rev. 3/95	STATEMENT OF CLAIM (Complaint) General	Case Number <div style="font-size: 1.5em; font-family: cursive;">SM-07.341</div>
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IN THE SMALL CLAIMS COURT OF TALLAPOOSA, ALABAMA
(Name of County)

IRENE H. WASSERMAN v. GREGORY T. LONG
Plaintiff Defendant

Plaintiff's Home Address: 4554 NOTASULGA RD
TALLASSEE, AL 36078

Defendant's Home Address: Executive Director
Federal Retirement Thrift
Investment Board
1250 H Street NW
WASHINGTON, DC
20005
BHM TSP OFFICE MANAGER
P.O. Box 385021
BHM, AL 35238

Plaintiff's Attorney's Address: _____

Additional Defendant(s) and Addresses: _____

NOTICE TO EACH DEFENDANT - READ CAREFULLY

YOU ARE BEING SUED IN THE SMALL CLAIMS COURT BY THE PLAINTIFF(S) SHOWN ABOVE. THE JUDGE HAS NOT YET MADE ANY DECISION IN THIS CASE, AND YOU HAVE THE RIGHT TO A TRIAL TO TELL YOUR SIDE.

HOWEVER, IF YOU, OR YOUR LAWYER, FAIL TO FILL OUT THE ENCLOSED ANSWER FORM AND DELIVER OR MAIL IT TO THE CLERK AT THE ADDRESS SHOWN BELOW, SO THAT IT WILL GET TO THE CLERK'S OFFICE WITHIN FOURTEEN (14) DAYS AFTER YOU RECEIVE THESE PAPERS, A JUDGMENT CAN BE TAKEN AGAINST YOU FOR THE MONEY OR PROPERTY DEMANDED IN THE FOLLOWING COMPLAINT. ONCE A JUDGMENT HAS BEEN ENTERED AGAINST YOU, YOUR PAYCHECK CAN BE GARNISHED AND/OR YOUR HOME OR PROPERTY SOLD TO SATISFY THAT JUDGMENT.

COMPLAINT

1. I claim the defendant owes the plaintiff the sum of \$ 3000.00 because: the BHM OFFICE failed to honor my verbal and written request to have my ALLEGED ONE AGE-BASED WITHDRAWAL of \$70,000 completed in January, 2007. This MISMANAGEMENT OF MY RETIREMENT ACCOUNT RESULTED IN A TAX OF \$16,621 of which \$5,210 was my responsibility.

2. Plaintiff also claims from the defendant court costs in the sum of 1100.00 (see note below), plus \$ _____ for interest and \$ _____ for lawyers' fees (only if plaintiff is represented by a licensed, practicing attorney and if the contract or note you signed so provides.)

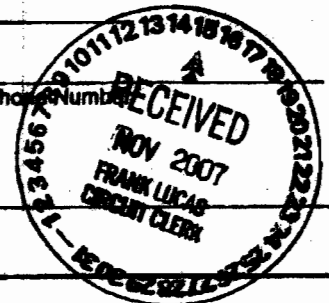
NOTE: The total amount of court costs may be more than this amount when the case is finally settled. The clerk will inform you of any additional costs at the close of the case.

CLERK'S ADDRESS:
 Frank Lucas, Circuit Clerk
 Tallapoosa County Courthouse
 125 N. Broadnax St., Room 132
 Dadeville, AL 36853

Clerk's Phone No. _____

(See Instructions on the Back)

Irene H. Wasserman
 Plaintiff or Plaintiff's Attorney (Signature)
 Attorney Code _____
 Plaintiffs or Plaintiff's Attorney's Phone Number _____
 Date of Filing _____



Form SM-1 (back) Rev. 3/95

INSTRUCTIONS TO THE PLAINTIFF'S

This is your case, and if you are acting as your own lawyer, you are responsible in seeing that your claim is successfully presented at each stage of the procedure until it is concluded.

The clerk of the court has a brochure which tells you how to handle a Small Claims case. This brochure is free to you on request.

1. You must complete one of these forms for each defendant you wish to sue. Each defendant must be described by his/her correct legal name and address (not a post office box). Be as brief as possible but include every important name, date and place.
2. To start your case you must file the completed form with the clerk assigned to Small Claims cases. The clerk will stamp a copy for you to show that the case has been filed and will insert the number of the case on the front of this form.
3. You are responsible for seeing that each defendant receives a copy of this form. If you haven't heard from anyone about the case in about fourteen days, then check with the clerk's office, to make sure that each defendant has been served.
4. If any of the defendants ask for a trial you will be notified of the place, the date, and the time. You must be present or your case will be dismissed. You may take a judgment by default fourteen (14) days after the defendant has received a copy of this form, if the defendant fails to file his/her Answer.
5. You are responsible to see to the enforcement of any judgment that is awarded to you. The Small Claims brochure will tell you how to go about recovering your money. It is not the responsibility of the court or the clerk to collect the judgment for you.

ANY TIME YOU CONTACT THE CLERK ABOUT THIS CASE YOU MUST REFER TO THE CASE NUMBER ON THE FRONT.

INSTRUCTIONS TO SHERIFF OR PROCESS SERVER

To Any Sheriff or Any Person Authorized by Rule 4.1(b)(1) or 4.1(b)(2) of the Alabama Rules of Civil Procedure to Effect Service in the State of Alabama.

You are hereby commanded to serve this summons and a copy of the Statement of Claim in this action upon the defendant(s) named

_____ and make proper return to this court.

Date _____

11-26-07

Clerk

Frank Lucas

By *BT*

RETURN ON SERVICE:

Served on defendant(s) named _____

by delivering a copy of the Summons and Statement of Claim to him/her in _____

County, Alabama, on (Date) _____

Process Server Signature _____

Title of Process Server _____

This service by certified mail of this Summons and Statement of Claim is initiated upon the request of _____ pursuant to Rule 4.1(c) of the Alabama Rules of Civil Procedure.

Date Requested _____

Date Mailed _____

Return Receipt Date _____

Clerk

BY: _____

RECEIVED NOV 28 2007

AVSO355

ALABAMA JUDICIAL DATA CENTER
DEFENDANTS ANSWER
SMALL CLAIMS

CASE: SM 2007 000341.00 CKT

IN THE DISTRICT COURT OF TALLAPOOSA COUNTY

DT FILED: 11/21/2007

IRENE H. WASSERMAN VS GREGORY T. LONG

LONG GREGORY
1250 H. STREET NW

WASHINGTON, DC 20005-0000

SSN: 000-00-0000

HOME PHONE: _____

WORK: _____

DEFENDANTS ANSWER TO THE COMPLAINT: PLEASE PRINT

NOTICE: IF YOU HAVE BEEN SUED IN A COUNTY IN WHICH YOU DO NOT LIVE AND IF THE SUIT AGAINST YOU IS NOT FOR SERVICES OR WORK AND LABOR PERFORMED IN THE COUNTY WHERE SUIT HAS BEEN FILED, YOU MAY REQUEST THAT IT BE TRANSFERRED TO YOUR HOME COUNTY. IF THIS APPLIES, COMPLETE "A" BELOW.

CHECK ONE:

- A _____ I DO NOT LIVE IN THIS COUNTY, I WANT THIS CASE TRANSFERRED TO MY HOME COUNTY OF _____
- B _____ I ADMIT EVERYTHING IN THE STATEMENT OF CLAIM AND DO NOT WANT A TRIAL (THIS MEANS THAT YOU CONSENT TO A JUDGMENT FOR THE AMOUNT CLAIMED PLUS COURT COSTS.)
- C _____ I ADMIT I OWE SOME MONEY, BUT NOT THE TOTAL AMOUNT CLAIMED BY THE PLAINTIFF(S). (IF THIS BLOCK IS CHECKED, THE CASE WILL BE SET FOR TRIAL. PLEASE NOTE THAT ANY MONEY PAID BY YOU ON THIS CLAIM AFTER THE SUIT WAS FILED MAY NOT BE REFLECTED ON THE STATEMENT OF CLAIM WHICH YOU RECEIVED. YOU SHOULD CONTACT THE PERSON WHO HAS SUED YOU OR HIS ATTORNEY TO DETERMINE THE PRESENT BALANCE WHICH IS CLAIMED.)
- D _____ I DENY THAT I AM RESPONSIBLE AT ALL. (EXPLAIN BELOW)

IF YOU CHECKED "C" OR "D", BRIEFLY EXPLAIN THE REASONS FOR YOUR ANSWER.

NAME AND ADDRESS OF EMPLOYER

BUSINESS PHONE

THIS ANSWER MUST BE SIGNED BY THE PERSON OR PERSONS WHO HAVE BEEN SUED OR THEIR ATTORNEY. AN ANSWER WHICH IS NOT SIGNED OR WHICH IS NOT SIGNED BY THE PROPER PERSON CANNOT BE CONSIDERED.

KEEP A COPY FOR YOUR FILES. MAIL ORIGINAL TO THE COURT ADDRESS BELOW.
MAIL A COPY TO THE PLAINTIFFS ATTORNEY AT THE ABOVE ADDRESS.

*****SIGNATURE OF DEFENDANT OR ATTORNEY*****

ADDRESS: _____

CLERK: FRANK LUCAS
125 N BROADNAX ST. RM 132
DADEVILLE AL 36953
(256) 825-1098

OPERATOR: BRF
PREPARED: 11/26/2007

AFTER FIVE DAYS RETURN TO
FRANK LUCAS, Circuit Clerk
TALLAPOOSA COUNTY COURTHOUSE
125 N. Broadmax Street, Room 132
DADEVILLE, AL 36853

**RESTRICTED
DELIVERY**

**RETURN RECEIPT
REQUESTED**

Gregory T. Long
BHM TSP Office Manager
P.O. Box 385021
Birmingham, AL 35238

35238+5021-21 8053



CERTIFIED MAIL



7003 2260 0006 9147 2636



0000



35238

U.S. POSTAGE
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DADEVILLE, AL
36853
NOV 27 07
AIR MAIL
\$9.31
00036344-05

RECEIVED NOV 28 2007

ATTACHMENT 2

RECEIVED

JAN -4 A 10:39

U.S. ATTORNEY
MIDDLE ALABAMA

IN THE SMALL CLAIMS COURT OF
TALLAPOOSA COUNTY, ALABAMA

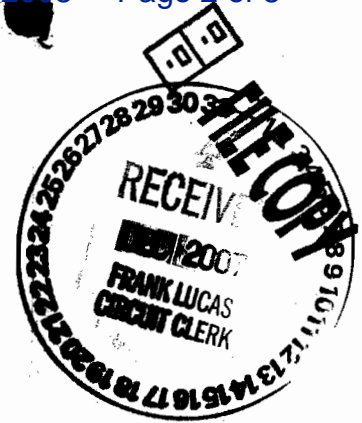
IRENE WASSERMAN,

Plaintiff,

v.

GREGORY LONG, Executive Director,
Federal Retirement Thrift Investment
Board.

Case Number: SM-07-341



MOTION TO SET ASIDE DEFAULT JUDGMENT

Comes now the defendant, Gregory Long, Executive Director, Federal Retirement Thrift Investment Board, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and pursuant to Rule 55(c), Alabama Rules of Civil Procedure, requests this Court set aside the default judgment entered herein on December 26, 2007, and as grounds states as follows:

1. The complaint in this matter was filed November 15, 2007.
2. On November 26, 2007, the summons and complaint were issued via certified mail to the defendant and same were received by an employee of the defendant's agency on November 28, 2007.
3. Thereafter, on December 14, 2007, the defendant filed in the United States District Court for the Middle District of Alabama a Notice of Removal of this cause from this Court to the United States District Court for the Middle District of Alabama, and a Notice of Filing Removal with this Court and served copies of the pleadings upon the plaintiff via US Mail. *See, Exhibit 1 attached hereto.*

4. On December 19, 2007, this Court received notice of the defendant's removal of this cause.

5. On December 26, 2007, this Court entered a default judgment against the defendant.

6. Title 28, United States Code, Section 1446(d) states, "[p]romptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded."

7. "Once removal was effectuated, the state trial court was divested of jurisdiction over the underlying case and could not, in the absence of an order of remand, take any further action regarding the case." Weinrib v. Duncan, 962 So.2d 167, 169 (Ala. 2007).

8. Alabama Rule of Civil Procedure 55(c) states, in pertinent part, "[t]he court may also set aside a judgment by default on the motion of a party filed not later than thirty (30) days after the entry of the judgment."

9. This Court was "divested of jurisdiction" on December 14, 2007, when the matter was removed to the United States District Court for the Middle District of Alabama and since this matter has not since been remanded, this Court was without jurisdiction over this matter at the time of the entry of its default judgment.

WHEREFORE, premises considered, the defendant respectfully requests that the order of default judgment entered herein on December 26, 2007, be set aside and that the record of these proceedings be so corrected such that the defendant may not be made to suffer the possible adverse consequences of same.

Respectfully submitted this 28th day of December, 2007.

LEURA G. CANARY
United States Attorney

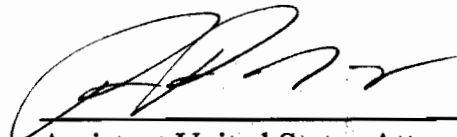
By: 

R. Randolph Neeley
Assistant United States Attorney
Bar Number: #9083-E56R
Attorney for Defendant
United States Attorney's Office
Post Office Box 197
Montgomery, AL 36101-0197
Telephone: (334) 223-7280
Facsimile: (334) 223-7418
E-mail: rand.neeley@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on December 28, 2007, I filed the foregoing with the Clerk of the Court, and I hereby certify that I have mailed, by United States Postal Service, a copy of same to the following:

Irene Wasserman
4554 Notasulga Rd.
Tallasse, AL 36078



Assistant United States Attorney

RECEIVED
IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA

NORTHERN DIVISION 7:14 P 5:32

Eastern

IRENE WASSERMAN,

Plaintiff,

v.

GREGORY LONG, Executive Director,
Federal Retirement Thrift Investment
Board,

Defendant.

ACTION NO.:

3:07-cv-1091-WKW

NOTICE OF REMOVAL

Petitioner, Gregory Long, Executive Director, Federal Retirement Thrift Investment Board, and/or unnamed employees of the Thrift Savings Plan (TSP), by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, respectfully petitions for removal of this action from the Small Claims Court of Tallapoosa County, Alabama, to the United States District Court for this District, and in support thereof, represent the following:

1. That Petitioner, Gregory Long, Executive Director, Federal Retirement Thrift Investment Board, and/or unnamed employees of the Thrift Savings Plan (TSP), is a named Defendant in the above-captioned civil action which is pending in the Small Claims Court of Tallapoosa County, Alabama, Civil Action No. SM-07-341. Copies of all process, pleadings, and orders served upon Defendants in such action are attached hereto.

**DEFENDANT'S
EXHIBIT**

CASE
NO. 1

EXHIBIT
NO. SM-07-341

2. That the above-captioned action is one which may be removed without bond to this court pursuant to 28 U.S.C. §§ 1442(a)(1), for the reasons that this is an action against an officer and/or agency of the United States for any act under color of such office.

WHEREFORE, Petitioner prays that said action be removed from the Small Claims Court of Tallapoosa County, Alabama.

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United States Attorney

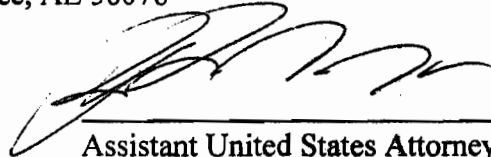
By: 

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Tallasse, AL 36078


Assistant United States Attorney

ATTACHMENT 3

IN THE SMALL CLAIMS COURT OF
TALLAPOOSA COUNTY, ALABAMA



ROBERT WASSERMAN,)

Plaintiff,)

v.)

Case Number: SM-07-342

GREGORY LONG, Executive Director,)

Federal Retirement Thrift Investment)

Board.)

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125 N. Broadnax St., Rm. 132
Dadeville, AL 36853

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NOV 20 2007

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United States Attorney

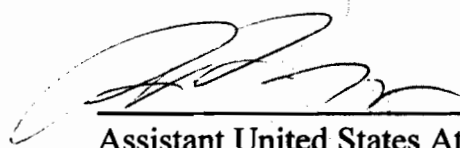
By: 

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Assistant United States Attorney
Bar Number: #9083-E56R
Attorney for Defendant
United States Attorney's Office
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Tallasse, AL 36078


Assistant United States Attorney

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

ROBERT WASSERMAN,)

Plaintiff,)

v.)

ACTION NO.: _____

GREGORY LONG, Executive Director,)
Federal Retirement Thrift Investment)
Board,)

Defendant.)

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United States Attorney


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Assistant United States Attorney

**IN THE SMALL CLAIMS COURT OF
TALLAPOOSA COUNTY, ALABAMA**

ROBERT WASSERMAN,

Plaintiff,

v.

Case Number: **SM-07-342**

GREGORY LONG, Executive Director,
Federal Retirement Thrift Investment
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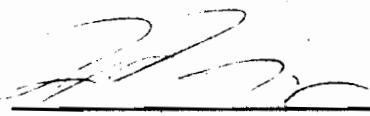
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Assistant United States Attorney
Bar Number: #9083-E56R
Attorney for Defendant
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4554 Notasulga Rd.
Tallasse, AL 36078


Assistant United States Attorney

Case Action Summary - 62SM200700034200

Date	Time	Code	Comments	Operator
11/26/2007	3:16:26	FILE	FILED THIS DATE: 11/15/2007 (AV01)	BRF
11/26/2007	3:16:27	ORIG	ORIGIN: INITIAL FILING (AV01)	BRF
11/26/2007	3:16:28	SCAN	CASE SCANNED STATUS SET TO: N (AV01)	BRF
11/26/2007	3:16:29	ASSJ	ASSIGNED TO JUDGE: CLAYTON KIM TAYLOR (AV01)	BRF
11/26/2007	3:16:30	TDMN	BENCH/NON-JURY TRIAL REQUESTED (AV01)	BRF
11/26/2007	3:16:31	STAT	CASE ASSIGNED STATUS OF: ACTIVE (AV01)	BRF
11/26/2007	3:17:01	PART	WASSERMAN ROBERT ADDED AS C001 (AV02)	BRF
11/26/2007	3:17:32	PART	LONG GREGORY ADDED AS D001 (AV02)	BRF
11/26/2007	3:17:33	SUMM	CERTIFIED MAI ISSUED: 11/26/2007 TO D001 (AV02)	BRF
12/11/2007	10:43:22	SERC	D001 SERVED CERTIFIED MAIL ON 11/30/2007	BRF
12/11/2007	10:43:58	SERC	D001 SERVED CERTIFIED MAIL ON 11/30/2007	BRF

 **END OF THE REPORT**

State of Alabama Unified Judicial System Form SM-1 (front) Rev. 3/95	STATEMENT OF CLAIM (Complaint) General	Case Number <div style="font-size: 1.2em; font-family: cursive;">SM-07-342</div>
--	---	---

IN THE SMALL CLAIMS COURT OF TALLAPOOSA, ALABAMA
 (Name of County)

<u>Robert Wasserman</u> Plaintiff Plaintiff's Home Address: <u>Robert Wasserman</u> <u>4554 NOTASULGA RD.</u> <u>TALLASSEE, AL. 36078</u> Plaintiff's Attorney's Address: _____	<u>v. GREGORY T. LONG</u> Defendant Defendant's Home Address: <u>EXECUTIVE DIRECTOR</u> <u>FEDERAL RETIREMENT THRIFT</u> <u>INVESTMENT BOARD</u> <u>1250 H STREET NW</u> <u>WASHINGTON, DC 20005</u> Additional Defendant(s) and Address: <u>BHM OFFICE MANAGER</u> <u>P.O. BOX 385021</u> <u>BHM, AL 35238</u>
--	--

NOTICE TO EACH DEFENDANT - READ CAREFULLY

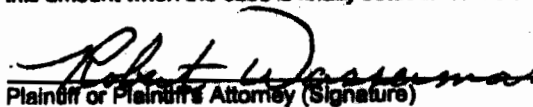
YOU ARE BEING SUED IN THE SMALL CLAIMS COURT BY THE PLAINTIFF(S) SHOWN ABOVE. THE JUDGE HAS NOT YET MADE ANY DECISION IN THIS CASE, AND YOU HAVE THE RIGHT TO A TRIAL TO TELL YOUR SIDE.

HOWEVER, IF YOU, OR YOUR LAWYER, FAIL TO FILL OUT THE ENCLOSED ANSWER FORM AND DELIVER OR MAIL IT TO THE CLERK AT THE ADDRESS SHOWN BELOW, SO THAT IT WILL GET TO THE CLERK'S OFFICE WITHIN FOURTEEN (14) DAYS AFTER YOU RECEIVE THESE PAPERS, A JUDGMENT CAN BE TAKEN AGAINST YOU FOR THE MONEY OR PROPERTY DEMANDED IN THE FOLLOWING COMPLAINT. ONCE A JUDGMENT HAS BEEN ENTERED AGAINST YOU, YOUR PAYCHECK CAN BE GARNISHED AND/OR YOUR HOME OR PROPERTY SOLD TO SATISFY THAT JUDGMENT.

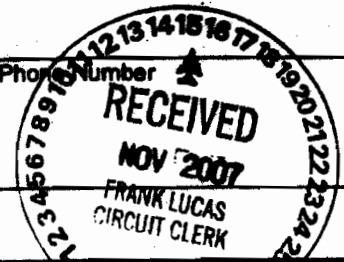
COMPLAINT

1. I claim the defendant owes the plaintiff the sum of \$ 12,000.00 because: THE BHM OFFICE STAFF FAILED TO NOTIFY ME OF WHAT THEY VIEWED AS TWO (2) AGE BASED WITHDRAWAL REQUESTS OF \$70,000 EACH. THE NEGLIGENCE CAUSED BY LACK OF NOTIFICATION AS REQUIRED BY THE TSP PLAN CAUSED ME TO INCUR AN EXTRA 2006 TAX OF \$5,210.
2. Plaintiff also claims from the defendant court costs in the sum of \$ 111.00 (see note below), plus \$ _____ for interest and \$ _____ for lawyers' fees (only if plaintiff is represented by a licensed, practicing attorney and if the contract or note you signed so provides.)

NOTE: The total amount of court costs may be more than this amount when the case is finally settled. The clerk will inform you of any additional costs at the close of the case.

CLERK'S ADDRESS: Frank Lucas, Circuit Clerk Tallapoosa County Courthouse 125 N. Broadnax St., Room 132 Dadeville, AL 36853 Clerk's Phone No. _____	<div style="text-align: center;">  Plaintiff or Plaintiff's Attorney (Signature) Attorney Code _____ </div> <div style="text-align: center; margin-top: 20px;"> Plaintiff's or Plaintiff's Attorney's Phone Number _____ Date of Filing _____ </div>
--	---

(See instructions on the Back)



Form SM-1 (back) Rev. 3/95

INSTRUCTIONS TO THE PLAINTIFF'S

This is your case, and if you are acting as your own lawyer, you are responsible in seeing that your claim is successfully presented at each stage of the procedure until it is concluded.

The clerk of the court has a brochure which tells you how to handle a Small Claims case. This brochure is free to you on request.

1. You must complete one of these forms for each defendant you wish to sue. Each defendant must be described by his/her correct legal name and address (not a post office box). Be as brief as possible but include every important name, date and place.
2. To start your case you must file the completed form with the clerk assigned to Small Claims cases. The clerk will stamp a copy for you to show that the case has been filed and will insert the number of the case on the front of this form.
3. You are responsible for seeing that each defendant receives a copy of this form. If you haven't heard from anyone about the case in about fourteen days, then check with the clerk's office, to make sure that each defendant has been served.
4. If any of the defendants ask for a trial you will be notified of the place, the date, and the time. You must be present or your case will be dismissed. You may take a judgment by default fourteen (14) days after the defendant has received a copy of this form, if the defendant fails to file his/her Answer.
5. You are responsible to see to the enforcement of any judgment that is awarded to you. The Small Claims brochure will tell you how to go about recovering your money. It is not the responsibility of the court or the clerk to collect the judgment for you.

ANY TIME YOU CONTACT THE CLERK ABOUT THIS CASE YOU MUST REFER TO THE CASE NUMBER ON THE FRONT.

INSTRUCTIONS TO SHERIFF OR PROCESS SERVER

To Any Sheriff or Any Person Authorized by Rule 4.1(b)(1) or 4.1(b)(2) of the Alabama Rules of Civil Procedure to Effect Service in the State of Alabama.

You are hereby commanded to serve this summons and a copy of the Statement of Claim in this action upon the defendant(s) named

and make proper return to this court.

Date 11-26-07

Clerk

Frank Lucas

By POH

RETURN ON SERVICE:

Served on defendant(s) named _____

by delivering a copy of the Summons and Statement of Claim to him/her in _____

County, Alabama, on (Date) _____

Process Server Signature

Title of Process Server

This service by certified mail of this Summons and Statement of Claim is initiated upon the request of _____ pursuant to Rule 4.1(c) of the Alabama Rules of Civil Procedure.

Date Requested _____

Date Mailed _____

Return Receipt Date _____

BY: _____
Clerk

ALABAMA JUDICIAL DATA CENTER
DEFENDANTS ANSWER
SMALL CLAIMS

CASE: SM 2007 000342.00 CKT

THE DISTRICT COURT OF TALLAPOOSA COUNTY

DT FILED: 11/15/2007

ROBERT WASSERMAN VS GREGORY T. LONG

LONG GREGORY
1250 H STREET NW

WASHINGTON, DC 20005-0000

SSN: 000-00-0000

HOME PHONE: _____

WORK: _____

DEFENDANTS ANSWER TO THE COMPLAINT: PLEASE PRINT

NOTICE: IF YOU HAVE BEEN SUED IN A COUNTY IN WHICH YOU DO NOT LIVE AND IF THE SUIT AGAINST YOU IS NOT FOR SERVICES OR WORK AND LABOR PERFORMED IN THE COUNTY WHERE SUIT HAS BEEN FILED, YOU MAY REQUEST THAT IT BE TRANSFERRED TO YOUR HOME COUNTY. IF THIS APPLIES, COMPLETE "A" BELOW.

CHECK ONE:

- A _____ I DO NOT LIVE IN THIS COUNTY, I WANT THIS CASE TRANSFERRED TO MY HOME COUNTY OF _____
- B _____ I ADMIT EVERYTHING IN THE STATEMENT OF CLAIM AND DO NOT WANT A TRIAL (THIS MEANS THAT YOU CONSENT TO A JUDGMENT FOR THE AMOUNT CLAIMED PLUS COURT COSTS.)
- C _____ I ADMIT I OWE SOME MONEY, BUT NOT THE TOTAL AMOUNT CLAIMED BY THE PLAINTIFF(S). (IF THIS BLOCK IS CHECKED, THE CASE WILL BE SET FOR TRIAL. PLEASE NOTE THAT ANY MONEY PAID BY YOU ON THIS CLAIM AFTER THE SUIT WAS FILED MAY NOT BE REFLECTED ON THE STATEMENT OF CLAIM WHICH YOU RECEIVED. YOU SHOULD CONTACT THE PERSON WHO HAS SUED YOU OR HIS ATTORNEY TO DETERMINE THE PRESENT BALANCE WHICH IS CLAIMED.)
- D _____ I DENY THAT I AM RESPONSIBLE AT ALL. (EXPLAIN BELOW)

IF YOU CHECKED "C" OR "D", BRIEFLY EXPLAIN THE REASONS FOR YOUR ANSWER.

NAME AND ADDRESS OF EMPLOYER

BUSINESS PHONE

THIS ANSWER MUST BE SIGNED BY THE PERSON OR PERSONS WHO HAVE BEEN SUED OR THEIR ATTORNEY. AN ANSWER WHICH IS NOT SIGNED OR WHICH IS NOT SIGNED BY THE PROPER PERSON CANNOT BE CONSIDERED.

KEEP A COPY FOR YOUR FILES. MAIL ORIGINAL TO THE COURT ADDRESS BELOW.
MAIL A COPY TO THE PLAINTIFFS ATTORNEY AT THE ABOVE ADDRESS.

****SIGNATURE OF DEFENDANT OR ATTORNEY****

ADDRESS: _____

CLERK: FRANK LUCAS
125 N BROADNAX ST. RM 132
DADEVILLE AL 36853
(256) 825-1098

OPERATOR: BRF
PREPARED: 11/26/2007

ATTACHMENT 4

RECEIVED

17 JAN -4 A 10:39

U.S. ATTORNEY
MIDDLE ALABAMAIN THE SMALL CLAIMS COURT
TALLAPOOSA COUNTY, ALABAMA

ROBERT WASSERMAN,

Plaintiff,

v.

GREGORY LONG, Executive Director,
Federal Retirement Thrift Investment
Board.

Case Number: SM-07-342



FILE COPY

MOTION TO SET ASIDE DEFAULT JUDGMENT

Comes now the defendant, Gregory Long, Executive Director, Federal Retirement Thrift Investment Board, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and pursuant to Rule 55(c), Alabama Rules of Civil Procedure, requests this Court set aside the default judgment entered herein on December 26, 2007, and as grounds states as follows:

1. The complaint in this matter was filed November 15, 2007.
2. On November 26, 2007, the summons and complaint were issued via certified mail to the defendant and same were received by an employee of the defendant's agency on November 30, 2007.
3. Thereafter, on December 14, 2007, the defendant filed in the United States District Court for the Middle District of Alabama a Notice of Removal of this cause from this Court to the United States District Court for the Middle District of Alabama, and a Notice of Filing Removal with this Court and served copies of the pleadings upon the plaintiff via US Mail. *See, Exhibit 1 attached hereto.*

4. On December 19, 2007, this Court received notice of the defendant's removal of this cause.

5. On December 26, 2007, this Court entered a default judgment against the defendant.

6. Title 28, United States Code, Section 1446(d) states, "[p]romptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded."

7. "Once removal was effectuated, the state trial court was divested of jurisdiction over the underlying case and could not, in the absence of an order of remand, take any further action regarding the case." Weinrib v. Duncan, 962 So.2d 167, 169 (Ala. 2007).

8. Alabama Rule of Civil Procedure 55(c) states, in pertinent part, "[t]he court may also set aside a judgment by default on the motion of a party filed not later than thirty (30) days after the entry of the judgment."

9. This Court was "divested of jurisdiction" on December 14, 2007, when the matter was removed to the United States District Court for the Middle District of Alabama and since this matter has not since been remanded, this Court was without jurisdiction over this matter at the time of the entry of its default judgment.

WHEREFORE, premises considered, the defendant respectfully requests that the order of default judgment entered herein on December 26, 2007, be set aside and that the record of these proceedings be so corrected such that the defendant may not be made to suffer the possible adverse consequences of same.

Respectfully submitted this 28th day of December, 2007.

LEURA G. CANARY
United States Attorney

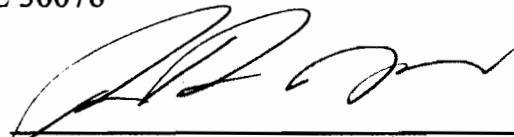
By: 

R. Randolph Neeley
Assistant United States Attorney
Bar Number: #9083-E56R
Attorney for Defendant
United States Attorney's Office
Post Office Box 197
Montgomery, AL 36101-0197
Telephone: (334) 223-7280
Facsimile: (334) 223-7418
E-mail: rand.neeley@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on December 28, 2007, I filed the foregoing with the Clerk of the Court, and I hereby certify that I have mailed, by United States Postal Service, a copy of same to the following:

Robert Wasserman
4554 Notasulga Rd.
Tallasse, AL 36078


Assistant United States Attorney

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA

~~NORTHERN~~ DIVISION
Eastern

ROBERT WASSERMAN,

Plaintiff,

v.

GREGORY LONG, Executive Director,
Federal Retirement Thrift Investment
Board,

Defendant.

RECEIVED

DEC 14 2007

ACTION NO.: 3:07cv1092-WKW

CLERK
U.S. DISTRICT COURT
MIDDLE DIST. OF ALA.

NOTICE OF REMOVAL

Petitioner, Gregory Long, Executive Director, Federal Retirement Thrift Investment Board, and/or unnamed employees of the Thrift Savings Plan (TSP), by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, respectfully petitions for removal of this action from the Small Claims Court of Tallapoosa County, Alabama, to the United States District Court for this District, and in support thereof, represent the following:

1. That Petitioner, Gregory Long, Executive Director, Federal Retirement Thrift Investment Board, and/or unnamed employees of the Thrift Savings Plan (TSP), is a named Defendant in the above-captioned civil action which is pending in the Small Claims Court of Tallapoosa County, Alabama, Civil Action No. SM-07-341. Copies of all process, pleadings, and orders served upon Defendants in such action are attached hereto.

DEFENDANT'S EXHIBIT	
CASE NO.	1
EXHIBIT NO.	3m-07-342

2. That the above-captioned action is one which may be removed without bond to this court pursuant to 28 U.S.C. §§ 1442(a)(1), for the reasons that this is an action against an officer and/or agency of the United States for any act under color of such office.

WHEREFORE, Petitioner prays that said action be removed from the Small Claims Court of Tallapoosa County, Alabama.

Respectfully submitted this 14th day of December, 2007.

LEURA G. CANARY
United States Attorney


By: 

R. Randolph Neeley
Assistant United States Attorney
Bar Number: #9083-E56R
Attorney for Defendant
United States Attorney's Office
Post Office Box 197
Montgomery, AL 36101-0197
Telephone: (334) 223-7280
Facsimile: (334) 223-7418
E-mail: rand.neeley@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2007, I filed the foregoing with the Clerk of the Court, and I hereby certify that I have mailed, by United States Postal Service, a copy of same to the following:

Robert Wasserman
4554 Notasulga Rd.
Tallasse, AL 36078


Assistant United States Attorney

ATTACHMENT 5

AVSO351

SM 2007 000341.00

JUDGE: CLAYTON KIM TAYLOR

ALABAMA JUDICIAL DATA CENTER
CASE ACTION SUMMARY
SMALL CLAIMS

IN THE DISTRICT COURT OF TALLAPOOSA COUNTY

IRENE H. WASSERMAN VS GREGORY T. LONG
FILED: 11/21/2007 TYPE: MISC SM CASE

TYPE TRIAL: NON-JURY TRACK:

DATE1: CA: DEFAULT JUDGMT CA DATE: 12/26/2007
DATE2: AMT: \$3,000.00 PAYMENT:
DATE3: **********
PLAINTIFF 001: WASSERMAN IRENE H.
4554 NOTASULGA ROAD ATTORNEY:TALLASSEE, AL 36078-0000
PHONE: (256) 000-0000ENTERED: 11/26/2007 ISSUED: TYPE:
SERVED: ANSWERED: JUDGEMENT: 12/26/2007DEFENDANT 001: LONG GREGORY
1250 H. STREET NW ATTORNEY: NEELEY R RANDOLPH
NEE002 P O BOX 197WASHINGTON, DC 20005-0000
PHONE: (256) 000-0000ENTERED: 11/26/2007 ISSUED: 11/26/2007 TYPE: CERTIFIED MONTGOMERY, AL 36104
SERVED: 11/28/2007 ANSWERED: JUDGEMENT: 12/26/2007 (205) 223-7280

11/26/2007	ASSIGNED TO JUDGE: CLAYTON KIM TAYLOR	(AV01)
11/26/2007	ORIGIN: INITIAL FILING	(AV01)
11/26/2007	BENCH/NON-JURY TRIAL REQUESTED	(AV01)
11/26/2007	CASE SCANNED STATUS SET TO: N	(AV01)
11/26/2007	CASE ASSIGNED STATUS OF: ACTIVE	(AV01)
11/26/2007	WASSERMAN IRENE H. ADDED AS C001	(AV02)
11/26/2007	LONG GREGORY ADDED AS D001	(AV02)
11/26/2007	CERTIFIED MAI ISSUED: 11/26/2007 TO D001	(AV02)
12/11/2007	D001 SERVED CERTIFIED MAIL ON 11/28/2007	
12/19/2007	DEFAULT JUDGMENT ORDER SENT TO	
12/19/2007	DEFAULT NOTICE PREPARED ON D001	
12/19/2007	DEFT'S NOTICE OF FILING REMOVAL	
12/19/2007	DEFT'S NOTICE OF REMOVAL	
12/20/2007	PLTFS' MOTION TO CONSOLIDATE	
12/26/2007	CASE ASSIGNED STATUS OF: DISPOSED	(AV01)
12/26/2007	DISPOSED ON: 12/26/2007 BY (DEFAULT JUDGMT)	(AV01)
12/26/2007	COURT ACTION JUDGE: CLAYTON KIM TAYLOR	(AV01)
12/26/2007	C001 DISPOSED BY (DEFAULT JUDGMT) ON 12/26/2007	

BRF 02/20/2008

SM 2007 000341.00

AVS0351

SM 2007 000341.00

JUDGE: CLAYTON KIM TAYLOR

ALABAMA JUDICIAL DATA CENTER
CASE ACTION SUMMARY
SMALL CLAIMS

IN THE DISTRICT COURT OF TALLAPOOSA COUNTY

IRENE H. WASSERMAN VS GREGORY T. LONG
FILED: 11/21/2007 TYPE: MISC SM CASE

TYPE TRIAL: NON-JURY TRACK:

DATE1: CA: DEFAULT JUDGMT CA DATE: 12/26/2007
DATE2: AMT: \$3,000.00 PAYMENT:
DATE3: *****

12/26/2007 D001 DISPOSED BY (DEFAULT JUDGMT) ON 12/26/2007

12/26/2007 JUDGMENT OF: \$3000.00 VS. D001 ON 12/26/2007 (AV02)

12/26/2007 COSTS OF: \$111.00 VS. D001 ON 12/26/2007 (AV02)

12/26/2007 JUDGEMENT NOTICE PREPARED ON D001

12/26/2007 LISTED AS ATTORNEY FOR D001: NEELEY R. RANDOLPH

12/26/2007 JUDGEMENT NOTICE PREPARED ON D001

12/26/2007 PLTFS RESPONSE TO ORDER

12/31/2007 DEFT'S MOTION TO SET ASIDE DEFAULT JUDGMENT

I, Frank Lucas, Clerk of the Circuit Court of
Tallapoosa County, Alabama, do hereby certify
that the foregoing is a true and correct copy of the
original Case Action Summary
on file and enrolled in my office.Witness my hand and the official seal of this court
this the 20th day of February 2008

Frank Lucas, Circuit Clerk

BRF 02/20/2008

SM 2007 000341.00

ATTACHMENT 6

AVS0351

SM 2007 000342.00

JUDGE: CLAYTON KIM TAYLOR

ALABAMA JUDICIAL DATA CENTER
CASE ACTION SUMMARY
SMALL CLAIMS

IN THE DISTRICT COURT OF TALLAPOOSA COUNTY

ROBERT WASSERMAN VS GREGORY T. LONG
FILED: 11/15/2007 TYPE: MISC SM CASE

TYPE TRIAL: NON-JURY TRACK:

DATE1: CA: DEFAULT JUDGMT CA DATE: 12/26/2007
DATE2: AMT: \$3,000.00 PAYMENT:
DATE3: *****PLAINTIFF 001: WASSERMAN ROBERT
4554 NOTASULGA ROAD ATTORNEY:TALLASSEE, AL 36078-0000
PHONE: (256) 000-0000ENTERED: 11/26/2007 ISSUED: TYPE:
SERVED: ANSWERED: JUDGEMENT: 12/26/2007DEFENDANT 001: LONG GREGORY
1250 H STREET NW ATTORNEY: NEELEY R RANDOLPH
NEE002WASHINGTON, DC 20005-0000
PHONE: (256) 000-0000ENTERED: 11/26/2007 ISSUED: 11/26/2007 TYPE: CERTIFIED
SERVED: 11/30/2007 ANSWERED: JUDGEMENT: 12/26/2007

11/26/2007	FILED THIS DATE: 11/15/2007	(AV01)
11/26/2007	ORIGIN: INITIAL FILING	(AV01)
11/26/2007	CASE SCANNED STATUS SET TO: N	(AV01)
11/26/2007	ASSIGNED TO JUDGE: CLAYTON KIM TAYLOR	(AV01)
11/26/2007	BENCH/NON-JURY TRIAL REQUESTED	(AV01)
11/26/2007	CASE ASSIGNED STATUS OF: ACTIVE	(AV01)
11/26/2007	WASSERMAN ROBERT ADDED AS C001	(AV02)
11/26/2007	LONG GREGORY ADDED AS D001	(AV02)
11/26/2007	CERTIFIED MAIL ISSUED: 11/26/2007 TO D001	(AV02)
12/11/2007	D001 SERVED CERTIFIED MAIL ON 11/30/2007	
12/11/2007	D001 SERVED CERTIFIED MAIL ON 11/30/2007	
12/19/2007	DEFAULT JUDGMENT ORDER SENT TO	
12/19/2007	DEFAULT NOTICE PREPARED ON D001	
12/19/2007	DEFT'S NOTICE OF FILING REMOVAL	
12/19/2007	DEFT'S NOTICE OF REMOVAL	
12/20/2007	PLTF'S MOTION TO CONSOLIDATE	
12/26/2007	CASE ASSIGNED STATUS OF: DISPOSED	(AV01)
12/26/2007	DISPOSED ON: 12/26/2007 BY (DEFAULT JUDGMT)	(AV01)

BRF 02/20/2008

SM 2007 000342.00

AVS0351

SM 2007 000342.00

JUDGE: CLAYTON KIM TAYLOR

ALABAMA JUDICIAL DATA CENTER
CASE ACTION SUMMARY
SMALL CLAIMS

IN THE DISTRICT COURT OF TALLAPOOSA COUNTY

ROBERT WASSERMAN VS GREGORY T. LONG
FILED: 11/15/2007 TYPE: MISC SM CASE

TYPE TRIAL: NON-JURY TRACK:

DATE1: CA: DEFAULT JUDGMT CA DATE: 12/26/2007
DATE2: AMT: \$3,000.00 PAYMENT:
DATE3: *****

12/26/2007 COURT ACTION JUDGE: CLAYTON KIM TAYLOR (AV01)

12/26/2007 C001 DISPOSED BY (DEFAULT JUDGMT) ON 12/26/2007

12/26/2007 D001 DISPOSED BY (DEFAULT JUDGMT) ON 12/26/2007

12/26/2007 LISTED AS ATTORNEY FOR D001: NEELEY R RANDOLPH

12/26/2007 JUDGMENT OF: \$3000.00 VS. D001 ON 12/26/2007 (AV02)

12/26/2007 COSTS OF: \$111.00 VS. D001 ON 12/26/2007 (AV02)

12/26/2007 JUDGEMENT NOTICE PREPARED ON D001

12/26/2007 JUDGEMENT NOTICE PREPARED ON D001

12/26/2007 PLTF'S RESPONSE TO ATTACHED ORDER

12/31/2007 DEFT'S MOTION TO SET ASIDE DEFAULT JUDGMENT

I, Frank Lucas, Clerk of the Circuit Court of
Tallapoosa County, Alabama, do hereby certify
that the foregoing is a true and correct copy of the
original Case Action Summary
on file and enrolled in my office.Witness my hand and the official seal of this court
this the 20th day of February 2008
Frank Lucas

Frank Lucas, Circuit Clerk

BRF 02/20/2008

SM 2007 000342.00